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such a case the same rule applies as in the case of a special power. He supports his rule by the decision, *In re Powell's Trusts*, 39 L. J. (Ch.) 188, and says that this is the weight of authority. GRAY, PERPETUITIES (2 ed.) § 526b. This rule seems to have been followed in this country wherever the question has been raised, and this seems to have been done mainly because of the powerful influence which Mr. GRAY's views have had. *Genet v. Hunt*, 113 N. Y. 158; *Thompson v. Livingston*, 6 N. Y. Super. Ct. 539; *Lawrence's Estate*, 136 Pa. St. 354, also the principal case, of which the facts are given above. In a recent note in 26 HARV. L. REV. 64, this rule as laid down by GRAY is very much questioned both upon principle and authority, and it is true that the case of *In re Powell's Trusts*, upon which the decisions of the American courts are, at least indirectly, based, has been entirely overruled in England. *Rous v. Jackson*, 29 Ch. D. 521; *In re Flower*, 55 L. J. Ch. 200; *Stuart v. Babington*, 27 L. R. Ir. 551.

PHYSICIANS AND SURGEONS—LIABILITY FOR UNAUTHORIZED OPERATION.—An infant aged eleven was operated upon for adenoids by defendant at the instance and request of an adult sister, but without parental sanction. The child never recovered consciousness after the administration of the anæsthetic, and died during the operation. The parents knew nothing of the operation until after the death of the child. *Held*, the surgeon was liable for the death in an action brought by the parents. *Rishworth v. Moss* (Tex. 1913) 159 S. W. 122.

That consent to a surgical operation is necessary except in cases of emergency, is uniformly the holding of the courts. Such consent must be given by the person himself if capable, or by some one with authority to consent for him if the person is incapable. Consent may be implied from the circumstances of the case. *Mohr v. Williams*, 95 Minn. 261; *Pratt v. Davis*, 224 Ill. 300; *State, use of Janney v. Housekeeper*, 70 Md. 162. Whether consent may be implied is ordinarily a question for the jury. So far as the writer has been able to ascertain, the question of a surgeon's liability for an unauthorized operation upon an infant has been before the courts in but one other case. In *Bakker v. Welsh*, 144 Mich. 632, an infant aged seventeen was operated upon without parental consent and died. He was accompanied to the offices of the surgeon by an adult sister. The court in its opinion held that it would be too harsh an application of the rule to hold the surgeon liable. The principal case says of the reasoning in *Bakker v. Welsh*, supra, "The decision of the court is entirely unsatisfactory and without valid reason for its rendition," and of the two cases logic would seem to be with the Texas Court. See, however, comment on *Bakker v. Welsh*, in 5 MICH. L. REV. 40. The question was attempted to be raised in *Luka v. Lowrie*, 171 Mich. 122, and in *Wood v. Wyeth*, 106 App. Div. 21, but these cases were decided on other grounds.

PLEADING—COMPLETE DEFENSE PLEADED AS A PARTIAL DEFENSE.—The complaint demanded the possession of, or the value of, certain fire apparatus installed by the plaintiff in the defendant's building. In his answer the defendant pleaded facts which, if true, would have been a complete defense,